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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,442	06/26/2003	Brett Error	OMN7133	7141
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RAUBVOGEL LAW OFFICE 820 LAKEVIEW WAY REDWOOD CITY, CA 94062			EXAMINER CHUMPTAZ, BOB R	
			ART UNIT	PAPER NUMBER
			4115	
			MAIL DATE	DELIVERY MODE
			05/14/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/608,442

**Applicant(s)**

ERROR ET AL.

**Examiner**

BOB CHUMPITAZ

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

This communication is a Non-Final Office Action in response to application filed June 26, 2003. Claims 1-20 are pending and are subject to a restriction requirement below. Claims 1-6, 17-20 have been elected and are presented for examination on the merits.

#### ***Specification***

The disclosure is objected to because of the following informalities: in ¶ [0001], U.S. Patent Application Serial No.'s are missing. Appropriate corrections are required.

#### ***Priority***

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e), it is acknowledged.

#### ***Election/Restrictions***

A telephone message was left for Amir Raubvogel on 4/29/2008 to request an oral election to the above restriction requirement. On 4/30/2008 the Examiner spoke with Amir Raubvogel and verified the restriction election of Group I, claims 1-6, 17-20.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, 17-20, drawn to a storage device having computer readable code for tracking data with the means of inserting, modifying, and configuring embedded tracking code which are classified in class 707, subclass 100.
- II. Claims 7-11, are drawn to a web-server for monitoring and event tracking which are classified in class 709, subclass 224.

- III. Claims 12-16, are drawn to the process of displaying, receiving, categorizing, and storing customized events and attributed data which are classified in class 705, subclass 001.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants and if it is shown that at least one subcombination is separately usable. In the instant case, Inventions I, II, and III are distinct wherein invention I deals with an apparatus having computer readable code for the method of inserting, modifying and configuring embedded tracking code in order to track data in a website and invention II deals with a web-server for monitoring and event tracking and invention III deals with the process of displaying, receiving, categorizing and storing customized events and attributed data. See MPEP § 806.05(d).

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

An election was made with traverse to prosecute the elected invention I. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-16 are withdrawn from further consideration by the examiner pursuant to 37 CFR 1.142(b) as being drawn to non-elected inventions II and III.

***Claim Objections***

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Claims 1 and 2 are objected for lack of clarification. In claim 1, the second limitation recites “modifying the embedding tracking code,” that refers back to the first limitation of claim 1 that recites “inserting the embedded tracking code.” It appears the term “embedding” is a typographical error made by applicant. Claim 2 recites “a custom event,” which refers back to “the custom event” of claim 1. It is not clear whether “the” custom event is the same as “a” custom event. Appropriate corrections are required. The examiner has considered claim 1 to be “embedded”, and claim 2 to be “the custom event.”

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 3, 4, 6, 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**Regarding claims 3 and 19,** it is unclear what the applicant regards as “custom attribute may retain a value for an indefinite period.” The term “indefinite,” is indeterminate and vague, it does not clearly define or determine “period” and whether period is taken in the term of time duration or in parts of equal length.

**Regarding claims 4 and 6,** the recitation “a custom attribute associate with an event,” of claim 4 and “containing the event,” of claim 6, recite the limitation “event,” but it is not clear whether “event” is different from the “custom event” of claim 1.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-6, 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Bean (US 7,185,085).**

As per claim 1, Bean discloses a method for customizing website traffic tracking data comprising the steps of: inserting embedded tracking code in a web page containing a custom event to be tracked (col. 1, line 23-29, code is copied into each web-site page that is to be monitored; see also col. 2, lines 50-54, java script code); and modifying the embedding tracking code to track the occurrence of the custom event to be tracked (col. 4, lines 22-46, name value pairs can be changed); and configuring, via a user interface, a data collection server to receive the custom event to be tracked (col. 2, line 61 – col. 3, line 6, database server that can be access via computer, see Fig1. item 16).

As per claim 2, Bean discloses a method for customizing website traffic tracking data as in claim 1, wherein modifying the embedded tracking code to track the occurrence of a custom event further comprises the steps of: modifying the embedded tracking code to associate a custom attribute with the custom event (col. 4, line 51 - col. 5, line 31, cookie that stores unique ID, user preference, and tracks user selections; see

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also, col. 9, line 34 – col. 10, line 10, method for implementing a feature whereby the data mining code is included in the data sent).

As per claim 3, Bean discloses wherein the custom attribute may retain a value for an indefinite period (col. 7, line 4-9, visitor traffic data e.g. time and length of the viewed page; see also, col.8, line 65 – col. 9, line 14, period of time for a user visiting a web site).

As per claim 4, Bean discloses wherein configuring, via a user interface, a custom attribute associated with an event to be tracked further comprises the step of: assigning expiration data to the custom attribute (col. 4, line 45-50, expiration date; see also, col. 8, line 65 - col. 9, line 14, expiration).

As per claim 5, Bean discloses wherein configuring, via a user interface, a custom attribute associated with an event to be tracked further comprises the step of: assigning version data to the custom attribute (col. 9, lines 2-24, cookie expires and new sessions are created; see also, col. 2, line 61 – col. 3, line 6, database server that can be access via computer, see Fig1. item 16).).

As per claim 6, Bean discloses the steps of: generating a configuration string associated with the custom attribute (col. 5, line 1-5, create an ID in the database and sends it as a cookie); and, inserting the configuration string in data collection code on a website containing the event to be tracked (col. 5, line 6-13, site stores user preferences and allows user to enter customized information).

As per claim 17, Bean discloses one or more computer readable storage devices having computer readable code embodied on said computer readable storage devices, said computer readable code for programming one or more computers to perform a method

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for customizing website traffic tracking data comprising the steps of: inserting embedded tracking code in a web page containing a custom event to be tracked (col. 1, line 9-20, programs stored in web server); and modifying the embedding tracking code to track the occurrence of the custom event to be tracked (col. 4, line 38-44, hard drive disk); and configuring, via a user interface, a data collection server to receive the custom event to be tracked (col. 2, line 50-65, database server).

As per claim 18, Bean discloses one or more computer readable storage devices having computer readable code embodied on said computer readable storage devices, said computer readable code for programming one or more computers to perform the method for customizing website traffic tracking data of claim 17, further comprising the steps of: modifying the embedded tracking code to associate a custom attribute with the custom event (col.4, line 60 - col. 5, line 31, database).

As per claim 19, Bean discloses one or more computer readable storage devices having computer readable code embodied on said computer readable storage devices, said computer readable code for programming one or more computers to perform the method for customizing website traffic tracking data of claim 18, wherein the custom attribute may retain a value for an indefinite period (col. 7, line 4-9, data collection server for the time and length of the viewed page; see also, col.8, line 65 – col. 9, line 14, period of time for a user visiting a web site).

As per claim 20, Bean discloses one or more computer readable storage devices having computer readable code embodied on said computer readable storage devices, said computer readable code for programming one or more computers to perform the method for customizing website traffic tracking data as in claim 18, further comprising the steps



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of: generating a configuration string associated with the custom attribute (col.3, line 15-27, data analysis server); and, inserting the configuration string in data collection code on a website containing the event to be tracked (col.3, line 28-43, hard disk.; see also, col. 8, line 1-40, JavaScript data mining code embedded within the webpage).

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BOB CHUMPITAZ whose telephone number is (571)270-5494. The examiner can normally be reached on M-TR: 7:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BRADLEY BAYAT can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

B. C.

Examiner, Art Unit 4115

/Bradley B Bayat/

Supervisory Patent Examiner, Art Unit 4115